

Appl. No. 09/886,831
Atty. Docket No. 8592
Amdt. dated May 3, 2004
Reply to Office Action of February 3, 2004
Customer No. 27752

REMARKS

Claims 1, 3-7, 10-13, and 21-29 are pending in the present application. No additional claims fee is believed to be due.

Claims 7 and 29 have been amended to further define the invention. Support for the amendment is found throughout the specification and specifically on page 8, line 1 and page 9, lines 4-10.

Drawings

Applicants are submitting corrected formal drawings showing a change to Fig. 9 and new copies of the photographs shown in Fig. 8. Applicants believe the formal drawings to be consistent with 37 C.F.R. §1.83(a) and M.P.E.P. §608.02(r).

Obviousness Double Patenting

The Examiner has rejected Claims 1, 3-7, 10-13, and 21-29 obviousness-type double patenting over Claims 1-15 and 19-31 of co-pending Application No 09/467,938. Pursuant to M.P.E.P. §1490, Applicants enclose an appropriate Terminal Disclaimer compliant with 35 U.S.C. §253 and 37 C.F.R. §3.73.

Rejection Under 35 USC 103

The Examiner has rejected Claims 1, 3-7, 10-13, and 21-29 under 35 USC 103(a) as being unpatentable over Benson, et al. (U.S. Patent No. 5,628,097) (hereinafter referred to as "Benson") in view of Shimalla (U.S. Patent No. 4,588,630) (hereinafter referred to as "Shimalla"). To establish a *prima facie* case of obviousness, the prior art reference (or references when combined) must teach or suggest all the claim limitations. Applicants submit that Benson in view of Shimalla does not meet this requirement.

Applicants assert that Benson and Shimalla do not teach or suggest all of the claim limitations. Benson discloses a method for aperturing a nonwoven web (abstract). Benson discloses that the nonwoven web may be a laminate or a single layer. Benson provides a three layer example in which the outlayers are spunbond and the central layer is a meltblown (column 7, lines 26-42). Benson also states that the nonwoven web may comprises fibers that are commingled with other materials such as particles or other fibers (column 7, lines 53-60). Shimalla discloses an apertured non-woven fabric comprising a web of thermoplastic fibers (abstract).

Appl. No. 09/886,831
Atty. Docket No. 8592
Amdt. dated May 3, 2004
Reply to Office Action of February 3, 2004
Customer No. 27752

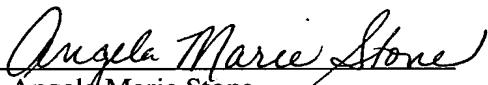
Claim 1 requires that a non-thermoplastic powder, granule, particulate, or gel be disposed between the two webs. Claims 7 and 29 require that a non-thermoplastic central layer containing a substance is disposed between a first and second webs. Neither Benson nor Shamalla teaches or suggests a non-thermoplastic material be disposed between the layers of a nonwoven laminate web. Benson and Shimalla do not teach or suggest the joining of non-thermoplastic materials or the joining of materials other than thermoplastic nonwovens or films. Therefore, one having ordinary skill in the art would not have been motivated by Benson taken in light of Shamalla to develop the present invention.

Conclusion

In light of the above remarks, it is requested that the Examiner reconsider and withdraw the rejections. Early and favorable action in the case is respectfully requested.

Applicants have made an earnest effort to place their application in proper form and to distinguish the invention as now claimed from the applied references. In view of the foregoing, Applicants respectfully request reconsideration of this application, entry of the amendments presented herein, and allowance of Claims 1, 3-7, 10-13, and 21-29.

Respectfully submitted,
John J. Curro, et al.

By 
Angela Marie Stone
Attorney for Applicants
Registration No. 41,335
(513) 634-9397

3 May 2004
Customer No. 27752